

ORIGINAL

BEFORE THE

Federal Communications Commission **RECEIVED**

WASHINGTON, D.C.

AUG 24 1993

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )

)  
 Amendment of the Commission's )  
 Rules to Implement Section 4(g)(3) )  
 of the Communications Act of 1934, )  
 as Amended, 47 U.S.C. § 154(g)(3), )  
 the Commission's Statutory Gift )  
 Acceptance Authority )

GC Docket No. 93-153

**COMMENTS OF THE**  
**NATIONAL ASSOCIATION OF SHORTWAVE BROADCASTERS**

The National Association of Shortwave Broadcasters ("NASB") hereby submits its initial Comments in this proceeding, pursuant to the Notice of Proposed Rule Making ("NPRM"), 58 Fed. Reg. 34405 (June 25, 1993). As detailed herein, NASB supports the adoption of rules that enable FCC permittees or licensees to make contributions to defray the cost of the agency's participation in international frequency-coordination activities.

**I. STATEMENT OF INTEREST**

1. NASB is a non-profit corporation, organized to advance the stature of FCC-licensed shortwave broadcasters, to improve business and operating conditions for shortwave broadcasters, and to monitor and recommend national and international legislation, regulations and policies that affect or may affect NASB's

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members. Voting membership in NASB is limited to licensees and permittees in the International Broadcast Service ("IBS"). Attachment A lists NASB's current membership.

## II. BACKGROUND

2. Because of propagation characteristics, two or more high-frequency ("HF") transmitters spaced thousands of miles apart can interfere with reception of each others' signals in areas far from either transmitter. Similarly, broadcasters in the same country or on different continents cannot simultaneously serve the same region of the globe ("zone of reception"<sup>1/</sup>) on the same frequency (i.e., use the same "frequency hour"<sup>2/</sup>) without interference. Accordingly, HF broadcasters must closely coordinate their use of the spectrum.

3. Article 17 of ITU regulations spells out coordination procedures that, by and large, have enabled broadcasters to provide a maximum of service with a minimum of interference. Seasonal coordination conferences occur in various spots in Europe and North America under the auspices of Article 17. The participants seek to accommodate as many requests as possible.

4. Consistent with ITU regulations, the FCC's rules require the seasonal filing of frequency-hour requests by IBS licensees and permittees. See 47 C.F.R. § 73.702. Since the FCC reinstated its filing-fee program, IBS licensees and permittees, in filing such requests, have had to pay filing fees of \$35.00

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<sup>1/</sup> See 47 C.F.R. §§ 73.701(o).

<sup>2/</sup> See 47 C.F.R. § 73.701(c).

per frequency-hour. The FCC based that fee on a calculation of the extent to which, on average, processing such requests consumes agency resources. Report and Order in Gen Docket No. 86-285, 2 FCC Rcd 947 (1987), recons. granted in part, 3 FCC Rcd 5987 (1988), fees amended, 5 FCC Rcd 3558 (1990), generally upheld, 6 FCC Rcd 5919 (1991). Such calculations necessarily included the payroll and travel costs involved in sending FCC staffers to the seasonal Article 17 coordination conferences.

5. However, almost simultaneously with imposing substantial filing fees on IBS licensees and permittees, the FCC -- apparently for budgetary reasons -- ceased sending staffers to the regular HF frequency-coordination conferences! The direct result is an inefficiency of the coordination process and costs that are unacceptable to IBS licensees and permittees. Without an FCC presence at such meetings, American HF broadcasters do not get the advocacy services for which the agency exacts substantial charges.<sup>3/</sup> To add insult to injury, if their original proposals conflict with foreign broadcasters' frequency-hour requests (whose interests do receive governmental representation), American broadcasters must then file amended frequency-hour requests -- and pay additional fees to the FCC -- just to pick up the crumbs left on the coordination conference's table.

6. NASB has voiced its outrage over this situation in many contexts. See, for example, NASB's Comments to the Notice of

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3/ "Taxation without representation is tyranny." Attributed to James Otis, 1763. J. Bartlett, Bartlett's Familiar Quotations 446A (14th Ed.)

Inquiry in ET Docket No. 93-198.<sup>4/</sup> While NASB believes that wholesale reexamination of the practice of charging filing fees for frequency-hour requests is long past due, NASB herein desires to express its support for the concept, set forth in the NPRM, of allowing IBS licensees and permittees to voluntarily contribute funds, on an unsolicited basis, to help defray the costs of attending international frequency-coordination conferences.<sup>5/</sup>

### III. DISCUSSION

7. NASB is sensitive to and shares the FCC's concerns about conflicts of interest. Indeed, NASB could not support the establishment of any structure or program that gave "donors" an inside track toward obtaining benefits from the government. However, with suitable safeguards, the Commission can and should establish a means by which licensees, permittees, or other parties such as NASB could help fund FCC attendance at frequency-coordination meetings.

8. The U.S. government must participate in coordination efforts if it is to secure the use of spectrum for U.S. entities. The difficulties that IBS licensees and permittees now experience in obtaining frequency-hour authorizations is proof positive of this. There is no conflict of interest in a licensee helping

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<sup>4/</sup> That Notice of Inquiry is part of the Commission's preparations for the 1993 International Telecommunication Union (ITU) World Radiocommunication Conference (WRC-93).

<sup>5/</sup> NASB submits that, if the agency continue to exact fees for frequency-hour requests, fairness would require an appropriate balance between the fee structure and the adequacy of a gift-reception program.

with the expenses of such participation, since the U.S. government expends its efforts on behalf of American interests.

9. HF broadcasting continues to be a vital part of global communications. Although such developing technologies as direct satellite broadcasting will provide additional means to reach the most affluent segments of the world population, HF broadcasting will remain for an indefinite time the sole means to reach vast numbers of people in the Third World and the former Soviet bloc. The ability of American entities to successfully and consistently project accurate news reports and American values to those large, geopolitically important areas and audiences is a critical national interest.

10. The U.S. government has recognized this. That is why, despite the federal deficit, the Voice of America, Radio Free Europe, Radio Liberty, and Radio Marti continue to enjoy funding. The government must also accord due weight to the key role that private-sector HF broadcasters will continue to play on the world scene for the foreseeable future. Resumed attendance by the FCC at international coordination meetings is essential to the ability of IBS licensees and permittees to serve both their audiences and the national interest.

11. In that light, NASB urges the Commission to make an unequivocal finding that there is no conflict of interest in an HF broadcaster providing funds to support international coordination efforts by the agency's staff, including payment for staff salaries and expenses in attending meetings, the cost of renting meeting rooms, etc. At these meetings, the FCC's goal is

to secure adequate spectrum for IBS licensees and permittees. Hence, the interests of IBS licensees and permittees and the FCC in these negotiations are essentially identical. The authority to accept gifts for reimbursement of the costs of travel to these meetings is consistent with the General Services Administration's interpretations of the gift statute. NPRM at 6, n. 21.


#### IV. CONCLUSION

12. In a time of increasing responsibilities and relatively fewer resources, the FCC should embrace the prospect of gifts from entities whose interests are aligned with those of the agency. Therefore, NASB respectfully urges the Commission to adopt rules consistent with these Comments.

Respectfully submitted,

**NATIONAL ASSOCIATION OF SHORTWAVE  
BROADCASTERS**

By

  
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Date: August 24, 1993

**ATTACHMENT A**

**NATIONAL ASSOCIATION OF SHORTWAVE BROADCASTERS, Inc.**  
**Membership list**

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**Christian Science Monitor Syndicate, Inc. (C. E. Evans)**  
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**Family Radio Network, Inc. (Harold Camping)**  
(Radio Station WYFR)  
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**Eternal Word Television Network (Bob German)**  
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**Continental Electronics Corporation (Everett King)**  
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